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MAY 31 2005

Technology Center 2100

In re Application of: CURLEY et al.)
Application No. 09/740,804) **DECISION ON PETITION TO**
Attorney Docket No. 2452-17) **WITHDRAW HOLDING OF**
Filed: December 21, 2000) **ABANDONMENT UNDER 37 CFR**
For: METHOD AND APPARATUS FOR) **§1.181 or 37 CFR 1.8(b)**
PROVIDING MEASUREMENT, AND)
UTILIZATION OF, NETWORK LATENCY
IN TRANSACTION-BASED PROTOCOLS

This is a decision on the petition, filed February 18, 2005, requesting the Withdrawal of the Holding of Abandonment of the above-identified application, which has been treated as a petition under 37 CFR §1.181.

The Petition is **GRANTED**, under 37 CFR 1.181.

The application was abandoned for failure to file a timely response to the Non Final Action mailed May 20, 2004. Notice of Abandonment was mailed January 19, 2005. A grantable petition must include a copy of the response and proof of timely filing of the response. No fee is required.

In support of the petition, Petitioner provides a facsimile cover sheet showing the following were submitted in the facsimile transmission a 14 page reply including:

- 1) a 2-page Certificate of Mailing and Transmittal Letter
- 2) a 3-page Petition to Withdraw the Holding of Abandonment
- 3) a 2-page Copy of the Notice of Abandonment and Cover Sheet
- 4) a 2-page Copy of the Transmittal Letter filed with the Response (2 Copies)
- 5) a 13 page Copy of the Amendment with Remarks
- 6) a 1-page Copy of the Notice of Abandonment
- 7) a 2-page Copy of Prepaid Postcards (File Copy)
- 8) a 2-page Copy of the return receipt of the Prepaid Postcards
- 9) a 1-page Copy of the Power of Attorney and
- 10) a 1-page Copy of the Change of Correspondence Address

Of the documents listed on the cover sheet, Petitioner submitted a copy of the original response (13 pages) to the Non Final Action dated May 20, 2004, a Petition to Withdraw (3-pages) the holding of Abandonment, and a post card receipt (2-pages) of the amendment stamped by OIPE on August 18, 2004.

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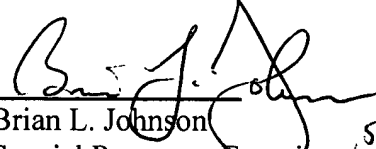
Decision on Petition

The reply provides a copy of the personal knowledge statement of mailing (2-page file copy of Prepaid Postcards and it provides the proof of actual receipt, the return receipt of the Prepaid Postcards (2-pages), above.

Petitioner has established that a response to the office action was filed on August 16, 2004.

Accordingly, the petition is **GRANTED**. The Notice of Abandonment is **VACATED** and the Petition under 1.8(b) is dismissed as Moot.

The application file is being forwarded to the technical support staff to **WITHDRAW** the holding of abandonment and to process the amendment (copy filed August 18, 2004). Subsequently, the application file will be forwarded to the examiner for consideration of the response.


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JC